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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,209	11/24/2003	Robert Holt	6928-3CON	6201

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EXAMINER

O'CONNOR, CARY E

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,209

Applicant(s)

HOLT

Examiner

Cary E. O'Connor

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1, 2, 9, 10, 13, 19 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Daftary (5,759,034). Daftary shows a bone anchor for use in a prosthesis comprising a bone attachment portion 16 adapted to secure the anchor in a bone, and a platform portion 26 having a non-flat top surface 42 (see fig. 2). As to claim 2, note that the prosthesis also includes an abutment 14 having a platform engagement portion 56 that can be flushly mated with the platform portion. The anchor also includes an abutment acceptor 36 adapted to engage the abutment. As to claim 9 and 19, note that the non-flat surface has a shape of at least two non-parallel flat surfaces. As to claim 10, note the external polygonal indexing device 262. As to claim 13, note that the abutment includes a bone anchor connection portion 52 and an artificial tooth connection portion 48 adapted to engage a second abutment acceptor of an artificial tooth.

Claims 1, 3, 4, 6, 8, 9, 20, 21, 23, 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Callan (5,931,675). Callan shows a bone anchor 10 for use in a prosthesis

comprising a bone attachment portion 22 adapted to secure the anchor in a bone, and a platform portion 24 having a non-flat top surface. As to claim 3, note that the prosthesis also includes an abutment 40 and an artificial tooth adapted to engage the abutment and anchor and having a bottom surface that can be flushly mated with the platform portion. The bone anchor also includes an abutment acceptor 32. As to claims 4, 6, 21 and 23, note that the non-flat top surface may have a regular curvilinear shape (see Figs. 5, 8 or 9). As to claims 8 and 25, note that the non-flat top surface has a concave shape. As to claims 9 and 26, note Fig. 7. As to claim 20, note that the abutment includes an anchor connection 41 and an artificial tooth connection portion 43. The artificial tooth includes a second abutment acceptor 62 and a platform engagement portion 66 that can be flushly mated with the platform portion. As to claim 27, note that the shapes of anchors 22 and 120 differ.

Claims 1, 2, 4-8, 10, 11, 13-18 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Wohrle (6,174,167). Wohrle shows a bone anchor 24 for use in a prosthesis comprising a bone attachment portion 26 adapted to secure the anchor in a bone, and a platform portion 42 having a non-flat top surface 48 (see fig. 8). As to claim 2, note that the prosthesis also includes an abutment 52 having a platform engagement portion that can be flushly mated with the platform portion. As to claims 4, 6, 14 and 16, the non-flat top surfaces shown by Wohrle are regular curvilinear (figs. 6 and 7). As to claims 5 and 15, note Fig. 7. As to claims 7 and 17, note the irregular curvilinear shape in Fig. 3. As to claim 18, note Fig. 11. As to claims 10 and 11, see column 5, lines 5-8. As to claim 13, note that the abutment includes a bone anchor connection portion and an artificial tooth connection portion 72 adapted to engage a second abutment acceptor of an artificial tooth. As to claim 27, note that the shapes of anchors in Figs. 11 and 12 differ.

Claim 27 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Wils (6,203,324).

Claims 1, 2, 9, 13, 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Dinkelacker (6,164,969). Dinkelacker shows a bone anchor 1 for use in a prosthesis comprising a bone attachment portion 2 adapted to secure the anchor in a bone, and a platform portion 3 having a non-flat top surface 5, 6. As to claim 2, note that the prosthesis also includes an abutment 20 having a platform engagement portion that can be flushly mated with the platform portion. As to claim 9 and 19, note that the non-flat surface has a shape of at least two non-parallel flat surfaces 5, 6. As to claim 13, note that the abutment includes a bone anchor connection portion 22 and an artificial tooth connection portion 36 adapted to engage a second abutment acceptor of an artificial tooth 40.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wohrle (6,174,167) in view of Klardie et al (5,782,918). Klardie shows a internal tapered indexing device in the bone anchor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the disclosed indexing devices of Callan with the internal tapered indexing device of Klardie, because it resists loosening.

Claims 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Callan (5,931,675) in view of Wohrle (6,174,167). Callan does not show a concave hyperbolic shape or an irregular curvilinear shape. Wohrle shows these shapes. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the non-flat top surface of the bone anchor of Callan with either of the two shapes mentioned above, in view of Wohrle, in order to follow the naturally occurring bone and soft tissue morphology.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it includes the word "disclosed". The abstract could be a bit more detailed, also. Correction is required. See MPEP § 608.01(b).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E. O'Connor whose telephone number is 571-272-4715. The examiner can normally be reached on M-Th 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/723,209
Art Unit: 3732

Page 6

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cary E. O'Connor
Primary Examiner
Art Unit 3732

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